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**(S E R V E D)**  
**( FEBRUARY 18, 2014 )**  
**(FEDERAL MARITIME COMMISSION)**

**FEDERAL MARITIME COMMISSION**

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**DOCKET NO. 14-01**

**POSSIBLE REVOCATION OF**

**OCEAN TRANSPORTATION INTERMEDIARY LICENSE NO. 022025**

**CARGOLOGIC USA LLC**

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**ORDER TO SHOW CAUSE**

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The Federal Maritime Commission (Commission) deems it appropriate and in the public interest that a proceeding be, and hereby is, instituted pursuant to sections 11 and 19 of the Shipping Act of 1984 (Shipping Act), 46 U.S.C. §§ 41302 and 40903, directing respondent Cargologic USA LLC a licensed non-vessel-operating common carrier (NVOCC) and ocean freight forwarder (OFF), to show cause why its Ocean Transportation Intermediary license should not be revoked for cause.

Based on information provided to it, the Commission's Bureau of Enforcement makes the following allegations:

**STATEMENT OF FACTS  
CONSTITUTING BASIS FOR COMMISSION ACTION**

1. Cargologic USA LLC (Cargologic) is a New York limited liability company, organized in July 2005.
2. Cargologic has been licensed to operate as an ocean transportation intermediary (OTI) pursuant to FMC license No. 022025 since September 2011.
3. According to records maintained by the Commission's Bureau of Certification and Licensing (BCL), Cargologic maintains its principal offices at 182-16 149<sup>th</sup> Road - Suite 212, Springfield Gardens, New York 11413.
4. BCL records identify the principal of Cargologic as Alex Epshteyn, President and Secretary.
5. Matvey Gurfinkel was approved as the sole Qualifying Individual (QI) for Cargologic.
6. Upon information and belief, Mr. Gurfinkel was no longer employed with nor serving as QI for Cargologic as of March 2013.
7. By correspondence mailed March 25, 2013 to Cargologic's principal office, BCL notified Cargologic of the Commission's requirement that all OTI licensees must maintain an active QI.
8. By correspondence mailed November 21, 2013 to Cargologic's principal office, BCL again notified Cargologic of the Commission's requirement that all OTI licensees must maintain an active QI.
9. By correspondence emailed December 11, 2013 to Mr. Epshteyn, BCL again notified Cargologic of the Commission's requirement that all OTI licensees must maintain an active QI.

10. The March 25, 2013 and November 21, 2013 letters requested Cargologic to timely comply with Commission regulations by submitting an application to replace its QI.
11. The December 11, 2013 email requested Cargologic to timely comply with Commission regulations by submitting an application to replace its QI.
12. Cargologic has neither responded to BCL's letters nor submitted an application for a replacement QI.

### **THE COMMISSION'S JURISDICTION AND REQUIREMENTS OF LAW**

13. Under 46 U.S.C. § 41302(a), the Commission is empowered to investigate any conduct or agreement that the Commission believes may be in violation of the Shipping Act.
14. Section 19 (c) of the Shipping Act, 46 U.S.C. §40903 (a), provides that the Commission:  
  
    . . . after notice and opportunity for hearing, shall suspend or revoke an ocean transportation intermediary's license if the Commission finds that the ocean transportation intermediary--(1) is not qualified to provide intermediary services; or (2) willfully failed to comply with a provision of this part or with an order or regulation of the Commission.
15. The Commission's implementing regulations at 46 C.F.R. §515.16(a) provide that an OTI license be revoked or suspended for any of the following reasons:
  - (i) Violation of any provision of the Act, or any other statute or Commission order or regulation related to carrying on the business of an ocean transportation intermediary;
  - (ii) Failure to respond to any lawful order or inquiry by the Commission;
  - (iii) Making a materially false or misleading statement to the Commission in connection with an application for a license or an amendment to an existing license;
  - (iv) Where the Commission determines that the licensee is not qualified to render intermediary services; or
  - (v) Failure to honor the licensee's financial obligations to the Commission.

16. Commission regulations at 515.11(b) require all licensees to maintain an active QI. 46 C.F.R. § 515.11(b).
17. Commission regulations at 515.12(d) require each licensee to notify the Commission of any changes in fact to its original license application (form FMC-18) within thirty (30) days after such change(s) occurs. 46 C.F.R. § 515.12(d).
18. Commission regulations at 515.18(c) require that, when a QI no longer serves in a full-time active capacity with the licensee, the licensee must furnish to the Commission the name(s) and detailed intermediary experience of any officer who may qualify the licensee within thirty (30) days after its QI no longer serves in an active capacity. 46 C.F.R. § 515.18(c).
19. Commission regulations at 515.31(g) require licensees to respond promptly to any lawful inquiries from any authorized representative of the Commission. 46 C.F.R. § 515.31(g).

**BASIS FOR REVOCATION OR SUSPENSION  
OF RESPONDENT'S OTI LICENSE**

20. The Commission previously has found that the sanction of revocation is appropriate when the Commission can no longer rely upon the honesty and integrity of the licensee, or of its principals, to the extent necessary to insure future conduct within the confines of the statutes and regulations. *AAA Nordstar Line Inc. – Revocation of License No. 12234*, 29 S.R.R. 663 (FMC, 2002); *Independent Ocean Freight Forwarder License - E.L. Mobley Inc.*, 21 F.M.C. 845 (FMC, 1979); *Independent Ocean Freight Forwarder Application - Lesco Packing Inc.*, 19 F.M.C. 132 (FMC, 1976).

21. The Commission also will issue cease and desist orders based on demonstrated Shipping Act violations and revocation of OTI licenses. *Revocation of Ocean Transportation Intermediary License No. 021899 - Trans World Logistics Corp.*, 32 S.R.R. 758 (FMC, 2012); *Revocation of OTI License No. 016019N – Central Agency of Florida, Inc.*, 31 S.R.R. 486 (FMC, 2008); *Commonwealth Shipping Ltd. – Materially False Statements*, 29 S.R.R. 1408 (FMC, 2003).
22. Cargologic's failure to submit to the Commission an amended Form FMC-18 Rev. advising BCL of changes in the OTI's QI and officers within thirty (30) days after such changes occurred establish that Cargologic is no longer qualified to provide intermediary services within the meaning of 46 U.S.C. § 40903.
23. Cargologic's failure to respond to lawful inquiries from the Commission establish that Cargologic is no longer qualified to provide intermediary services within the meaning of 46 U.S.C. § 40903.
24. Cargologic has failed to maintain an active QI since March, 2013, in violation of 46 C.F.R. §515.11(b).
25. Cargologic has failed to timely notify the Commission of Mr. Gurfinkel's separation from Cargologic, in violation of 46 C.F.R. §515.12(d).
26. Cargologic has failed to timely replace its QI, in violation of 46 C.F.R. §515.18(c).
27. Cargologic has failed to respond to BCL's correspondence of March 25, 2013, November 21, 2013, and December 11, 2013, in violation of 46 C.F.R. §515.31(g).
28. Cargologic is no longer qualified to provide intermediary services within the meaning of 46 C.F.R. §515.16(a).

## **ORDER**

NOW THEREFORE, IT IS ORDERED That, pursuant to Sections 11, 14 and 19 of the Shipping Act, 46 U.S.C. §§ 41302, 41304, 40903(a)(2), Cargologic USA LLC is directed to show cause no later than March 21, 2014, why the Commission should not revoke its license inasmuch as the licensee is otherwise not qualified to render intermediary services;

IT IS FURTHER ORDERED That, pursuant to Sections 11, 14 and 19 of the Shipping Act, 46 U.S.C. §§ 41302, 41304, 40903(a)(2), Cargologic USA LLC is directed to show cause, no later than March 21, 2014, why the Commission should not order it to cease and desist from operating as an ocean transportation intermediary in the foreign trade of the United States inasmuch as the licensee is otherwise not qualified to render intermediary services;

IT IS FURTHER ORDERED That, this proceeding be limited to the submission of affidavits of fact and memoranda of law;

IT IS FURTHER ORDERED That, any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 68 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.68. Such petition shall be accompanied by the petitioner's memorandum of law and affidavit of fact, if any, and shall be filed no later than March 21, 2014;

IT IS FURTHER ORDERED That, Cargologic USA LLC be named as Respondent in this proceeding. Affidavits of fact and memoranda of law shall be filed by Respondent and any intervenors in support of Respondent no later than March 21, 2014;

IT IS FURTHER ORDERED That, the Commission's Bureau of Enforcement (BOE) be made a party to this proceeding;

IT IS FURTHER ORDERED That, reply affidavits and memoranda of law shall be filed by BOE and intervenors in opposition to Respondent no later than April 7, 2014;

IT IS FURTHER ORDERED That:

(a) Should any party believe that an evidentiary hearing is required, that party must submit a request for such hearing together with a statement setting forth in detail the facts to be proved, the relevance of those facts to the issues in this proceeding, a description of the evidence which would be adduced, and why such evidence cannot be submitted by affidavit; and

(b) Any request for evidentiary hearing shall be filed no later than April 7, 2014;

IT IS FURTHER ORDERED That, notice of this Order to Show Cause be published in the Federal Register, and that a copy thereof be served upon Respondent at its last known address;

IT IS FURTHER ORDERED That, all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 2 of the Commission's Rules of Practice and Procedure, 46 C.F.R § 502.2, as well as mailed directly to all parties of record;

FINALLY, IT IS ORDERED That, pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.61, the final decision of the Commission in this proceeding shall be issued no later than June 24, 2014.

By the Commission.

Karen V. Gregory  
Secretary

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